

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
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MEETING

IN THE MATTER OF:

Cafe Dullul	
t/a Rendezvous Lounge	Protest
2226 18th Street, NW	Hearing
Retailer CT - ANC-1C	(Status)
License No. 14272	
Case #14-PRO-00029	

(Application to Renew the
License)

June 18, 2014

The Alcoholic Beverage Control Board met in the Alcoholic Beverage Control Hearing Room, Reeves Building, 2000 14th Street, N.W., Suite 400S, Washington, D.C. 20009, Chairperson Ruthanne Miller, presiding.

PRESENT:

RUTHANNE MILLER, Chairperson
NICK ALBERTI, Member
DONALD BROOKS, Member
MIKE SILVERSTEIN, Member

P-R-O-C-E-E-D-I-N-G-S

(9:50 a.m.)

CHAIRPERSON MILLER: The next case is Case No. 14-PRO-00029, Rendezvous Lounge located at 2226 18th Street, N.W., License No. 14272, in ANC-1C. And this is a Protest Hearing (Status) case with respect to a license renewal.

Would you identify yourselves for the record, please?

MR. HART: Yes. I'm Brian Hart, Commissioner for ANC-1C01.

MR. JAMES: Denis James representing the Kalorama Citizens Association.

MS. AUBURN: Benedicte Auburn representing the Reed-Cooke Neighborhood Association.

CHAIRPERSON MILLER: Okay. Is anybody here from Rendezvous Lounge? Okay. The status was called 9:30. Have any of you been in touch with the owner of Rendezvous

1 Lounge?

2 MR. JAMES: We actually reached an
3 agreement in principle. You know, it's
4 between the ANC meetings, so the ANC -- when
5 is your next meeting date?

6 MR. HART: July 9th, I believe.

7 MR. JAMES: -- would consider it
8 at that meeting.

9 CHAIRPERSON MILLER: Okay. I
10 don't think -- I'm just going to ask you if
11 you have time if we pass this case, just to
12 see if someone from Rendezvous shows up? Just
13 to the end of the statuses, which is probably
14 no more than, let me see, 10 minutes or so.

15 MR. JAMES: Sure.

16 CHAIRPERSON MILLER: Can you do
17 that? Okay. It would be better to have them
18 here as well.

19 So I understand what you are
20 saying is you are -- you have basically worked
21 out a settlement agreement?

22 MR. JAMES: Yes.

1 CHAIRPERSON MILLER: Okay.

2 MR. JAMES: An amendment to the
3 existing settlement agreement.

4 CHAIRPERSON MILLER: Oh, okay.
5 That's great. All right. And if you notice
6 that the owner comes in, if you could just
7 flag us?

8 MR. JAMES: Sure.

9 CHAIRPERSON MILLER: We will take
10 you soon. All right. Thank you. I
11 appreciate that.

12 MR. HART: Thank you.

13 (Whereupon, the above-entitled
14 matter went off the record at 9:52 a.m. and
15 resumed at 10:05 a.m.)

16 MEMBER ALBERTI: Make them wait.
17 They made us wait.

18 CHAIRPERSON MILLER: Okay. We
19 will go back to the Rendezvous case now,
20 that's Case No. 14-PRO-00029, Rendezvous
21 Lounge. Okay. Would you put your names on
22 the record again?

1 MR. JAMES: Oh, Denis James
2 representing Kalorama Citizens Association.

3 CHAIRPERSON MILLER: Okay.

4 MS. AUBURN: Benedicte Auburn for
5 the Reed-Cooke Neighborhood Association.

6 MR. HART: Brian Hart, ANC
7 Commissioner for ANC-1C.

8 CHAIRPERSON MILLER: Okay. So all
9 the protestants are here for this status and
10 the owner is not.

11 Now, we have in our regulations a
12 provision that allows us, it says we may
13 dismiss for failure to appear at the status.
14 However, in some instances that's not
15 necessarily beneficial to all the parties.
16 And it sounded to me like you have already got
17 a settlement or something, so I would just
18 like to hear you on that issue.

19 MR. JAMES: In complete openness,
20 we don't have a signed agreement.

21 CHAIRPERSON MILLER: Yes.

22 MR. JAMES: Particularly because

1 the ANC hasn't met yet to consider it. I
2 believe that the ANC will approve it though.
3 The KCA will sign, you know, and I'm sure --

4 MS. AUBURN: RCNA had its monthly
5 public meeting and there was a vote to accept
6 the new amendment to the settlement agreement.

7 MR. HART: I think the ANC is
8 prepared to sign the agreement as well, so, in
9 this instance, I would not advocate for
10 dismissal.

11 CHAIRPERSON MILLER: Okay. So
12 sometimes it is more trouble than it's worth,
13 so I just wanted to get your input, because
14 the regulation means that we may dismiss for
15 failure to appear.

16 Okay. Are there comments by Board
17 Members?

18 MEMBER ALBERTI: Yes. I would
19 just note that settlement agreement can be
20 entered into at any time, so regardless of
21 what action we take today, negotiations on the
22 settlement agreement and the signing of the

1 settlement agreement can go forward.

2 So if we dismiss the licensee
3 today, it really has no bearing on new
4 negotiations and what you are doing with the
5 settlement agreement. I think the licensee
6 should have come. I think we have a policy
7 when someone doesn't show up, they are
8 dismissed.

9 So the process would start again
10 for the licensee. Meanwhile, you guys go
11 ahead and file a settlement agreement and
12 things go smoothly with the licensee as he
13 goes forward. But I think that we should
14 adhere to our policy, treat everybody the same
15 and dismiss this applicant.

16 CHAIRPERSON MILLER: Others?
17 Okay. I mean, I would say we have been
18 adhering to a regulation, and so we have to
19 look at it on a case-by-case basis. And so I
20 just want to -- if their settlements fall
21 through and you go to Protest, you know, I
22 just wanted to hear whether or not it's more

1 of a hassle if we dismiss for this reason or
2 it's not, you know.

3 MR. JAMES: I would just note that
4 we have already gone through one round of
5 dismissal with this licensee.

6 CHAIRPERSON MILLER: Okay.

7 MR. JAMES: And we went to
8 mediation a second time and all the rest of
9 them.

10 CHAIRPERSON MILLER: Right.

11 MEMBER ALBERTI: So this licensee
12 was dismissed earlier?

13 MS. AUBURN: Yes.

14 CHAIRPERSON MILLER: Yes.

15 MEMBER ALBERTI: And they don't
16 show up again?

17 MS. AUBURN: Yes.

18 MEMBER ALBERTI: And we are just
19 going to give them a pass? Is that what you
20 are saying, Ms. Miller?

21 CHAIRPERSON MILLER: That's not
22 what I'm saying.

1 MEMBER ALBERTI: Oh, okay.

2 CHAIRPERSON MILLER: I'm saying
3 it's not -- no. I'm saying I don't think
4 dismissal is necessarily the right remedy in
5 this case. I think sometimes when we dismiss,
6 it's harder on the parties. They have to go
7 through all these things again. They have to
8 go through mediation again.

9 MEMBER ALBERTI: As I said
10 earlier, it's not hard on the protestants.
11 This caused them no pain. It caused the
12 licensee some pain, but there is absolutely no
13 pain for the protestants in this case, because
14 they can just go forward with the settlement
15 agreement, get it signed, get it approved and
16 be done with it and never have to come back on
17 this case.

18 CHAIRPERSON MILLER: Okay.

19 MR. HART: I would note that I
20 think, our Chair Simpson has expressed this,
21 I think to ABRA previously, that often times
22 when the protestants don't show, it's

1 dismissed out of hand and that doesn't always
2 seem to be the case when the licensee doesn't
3 show.

4 So there is some inconsistency
5 there in the policy and I think there are
6 incentives that are created when the policy is
7 not enforced in a consistent way.

8 CHAIRPERSON MILLER: Okay.

9 MEMBER ALBERTI: Thank you. Thank
10 you, Mr. Hart, Commissioner Hart.

11 CHAIRPERSON MILLER: So my
12 question is --

13 MEMBER ALBERTI: I agree with that
14 entirely.

15 CHAIRPERSON MILLER: -- then I'm
16 asking you as the protestants, I don't want to
17 make an arbitrary decision, that you be in
18 favor of dismissal? First, you said you
19 wouldn't be. So now are you saying you've
20 changed your mind you would be?

21 MR. HART: Well, I said I wouldn't
22 advocate for it, but if direct -- if asked

1 directly based on this discussion, based on
2 the context, I would say yes, I would be in
3 favor of it.

4 MR. JAMES: May I?

5 CHAIRPERSON MILLER: Yes.

6 MR. JAMES: If this -- well, I'm
7 not sure. It would seem that if the licensee
8 is dismissed and perhaps denied reentry to the
9 case, there would be more placarding and the
10 licensee may feel like well, the agreement
11 that I made in principle, you know, is no
12 longer valid. I mean, especially if she got
13 some legal advice, that we would all have to
14 start over and then we would have to spend a
15 lot more time with folks like going to
16 mediation again.

17 CHAIRPERSON MILLER: Right. And
18 the protest date would be further out.

19 MR. JAMES: Yes.

20 CHAIRPERSON MILLER: Again, yes.

21 MS. AUBURN: And we have the seven
22 days notice, you know, all the -- most of the

1 neighborhood associations are going to be in
2 recess this summer. It's really kind of like
3 pushed for like 2015 when we have been able in
4 the last few month to reach out an amendment
5 to the settlement agreement where every party
6 agree on it during the mediation with Ms.
7 Fletcher.

8 CHAIRPERSON MILLER: Okay.

9 MS. AUBURN: You know, so she had
10 a copy and we make sure and she, I think,
11 already started to work on the settlement
12 agreement by doing what we recommended to do.
13 So it would be a big blow-off for us to start
14 from scratch and all the work that it entails.

15 CHAIRPERSON MILLER: Okay. So you
16 would not be in favor of dismissal. Is that
17 right?

18 MS. AUBURN: I am not in favor.

19 CHAIRPERSON MILLER: Mr. James,
20 same?

21 MR. JAMES: It's the Board's
22 decision.

1 CHAIRPERSON MILLER: You don't
2 take any position? I just wanted to know what
3 your position was. If you are not taking one,
4 I heard what you said, but, okay. All right.
5 Mr. Silverstein?

6 MEMBER SILVERSTEIN: Madam Chair,
7 I think there are two issues here. The first
8 issue is the process itself and the inherent
9 unfairness in the process, especially to
10 applicants in the case where -- or to
11 protestants in a case where the applicant
12 might not show up and how different sides are
13 treated differently and unfairly.

14 The second issue is whether we
15 would be doing harm or setting this back if we
16 were to dismiss this particular case at this
17 time.

18 I think that it is clear that
19 there is a need us to reexamine the process
20 itself and I believe that the Board is aware
21 of that and is looking at ways to make that
22 process more fair to both sides and more even

1 handed.

2 On the other hand, I would not
3 want to do anything to discourage the parties
4 in this case or to make things more difficult
5 in a situation where things appear to be
6 moving well. As such, I would hope that we
7 simply continue this matter and we wish you
8 both well in your efforts.

9 CHAIRPERSON MILLER: Okay. I
10 would agree. So I'm not going to make a
11 Motion to Dismiss. I don't know if anybody
12 else wants to.

13 MEMBER ALBERTI: So, I mean, what
14 happens if we -- if he isn't here? I mean, we
15 have to have a motion in some way to go --

16 CHAIRPERSON MILLER: I'm going to
17 schedule the case.

18 MEMBER ALBERTI: Okay. I make a
19 Motion to Dismiss.

20 MEMBER BROOKS: I second it.

21 CHAIRPERSON MILLER: Okay. There
22 is a Motion to Dismiss that has been seconded.

1 All those in favor say aye.

2 MEMBER ALBERTI: Aye.

3 MEMBER BROOKS: Aye.

4 CHAIRPERSON MILLER: All those
5 opposed?

6 MEMBER SILVERSTEIN: No.

7 CHAIRPERSON MILLER: Opposed. The
8 motion fails --

9 MEMBER ALBERTI: It fails.

10 CHAIRPERSON MILLER: -- for lack
11 of a majority by a vote of 2-2.

12 MEMBER ALBERTI: May I just make
13 one comment? May I make one comment? Mr.
14 James and the woman next to you, I forget your
15 name, I'm sorry, Ms. Auburn.

16 MS. AUBURN: Benedicte.

17 MEMBER ALBERTI: Ms. what?

18 MR. JAMES: Auburn.

19 MEMBER ALBERTI: Ms. Auburn. I
20 have heard you complain vehemently about the
21 lack of fairness where the licensee gets a
22 pass and doesn't get dismissed, you know, and

1 they get a second chance. I'm trying to
2 follow a scheme that is fair to everybody. To
3 set a precedent where if the licensee doesn't
4 show up, they get dismissed.

5 MS. AUBURN: Understood, Mr.
6 Alberti.

7 MEMBER ALBERTI: This is the
8 second time. And so no, no, wait. I don't
9 need a response. When you complain in the
10 future, it will ring hollow with me and I just
11 want you to let that -- let you know that.

12 MS. AUBURN: In this particular
13 situation, we reach an agreement. It's not --

14 MEMBER ALBERTI: Have -- some
15 times in life you can't have it both ways.

16 CHAIRPERSON MILLER: Okay. I just
17 want to comment on that, because that's one
18 Board Member's view. And I think what Mr.
19 Silverstein expressed was that we are going to
20 be looking at, you know, our rules and how
21 they impact the proceedings and the different
22 parties. And so in a way, we do want them to

1 be fair, but we don't want to just apply them
2 necessarily the same when, in fact, you are
3 going to be hurt by them. If it's really
4 going to hurt the process, it doesn't make
5 sense.

6 So that's why we are looking at
7 it, I am at least on a case-by-case basis. So
8 okay. So you are -- now, we are just going to
9 need the protest date on. You are scheduled
10 for August 13, 2014 at 1:30 p.m.

11 And I want to just bring to your
12 attention that it is most important that you
13 file that Protest Information Form within
14 seven days of the hearing and serve it on all
15 the parties involved. And the Protest
16 Information Form is very important because it
17 identifies, if you go to protest, those issues
18 that may be remaining.

19 And so we can just focus on, all
20 parties can focus on the remaining issues.
21 Identify your witnesses by name and we want to
22 know what they are going to be testifying to

1 and there will be an exhibit form you need to
2 file with the attached exhibits. And all
3 these requirements make for a more efficient
4 hearing where everybody is on notice of what
5 the issues are and who the witnesses are going
6 to be and what the evidence is going to be and
7 that's why we require that.

8 So if you don't identify
9 witnesses, it's possible that they will be
10 excluded at trial because -- if it's
11 prejudicial to the other party, if there is no
12 good reason why you shouldn't have been able
13 to identify them.

14 And with your exhibits, it's the
15 same. Except for a party, a party is always
16 allowed to testify.

17 With respect to exhibits, it's the
18 same thing, exhibits could be excluded if you
19 don't disclose them if it shows that it would
20 be prejudicial to the other side, because they
21 didn't have notice and there is no good reason
22 why you didn't produce them before.

1 Okay. So if you have any
2 questions after the hearing, you can contact
3 our Legal Counsel, Martha Jenkins, or Ms.
4 Anderson at 442-6492 and hopefully the
5 settlement agreement will just come through.
6 All right. Thank you very much.

7 MS. AUBURN: Thank you.

8 MR. JAMES: Thank you.

9 MR. HART: Thank you.

10 CHAIRPERSON MILLER: Okay.

11 (Whereupon, the Protest (Status)
12 Hearing in the above-entitled matter was
13 concluded at 10:18 a.m.)

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<p>A</p> <p>a.m 2:2 4:14,15 19:13</p> <p>able 12:3 18:12</p> <p>above-entitled 4:13 19:12</p> <p>ABRA 9:21</p> <p>absolutely 9:12</p> <p>accept 6:5</p> <p>action 6:21</p> <p>adhere 7:14</p> <p>adhering 7:18</p> <p>advice 11:13</p> <p>advocate 6:9 10:22</p> <p>agree 10:13 12:6 14:10</p> <p>agreement 3:3,21 4:3 5:20 6:6,8,19 6:22 7:1,5,11 9:15 11:10 12:5,12 16:13 19:5</p> <p>ahead 7:11</p> <p>Alberti 1:17 4:16 6:18 8:11,15,18 9:1,9 10:9,13 14:13,18 15:2,9 15:12,17,19 16:6 16:7,14</p> <p>Alcoholic 1:2,12,12</p> <p>allowed 18:16</p> <p>allows 5:12</p> <p>amendment 4:2 6:6 12:4</p> <p>ANC 3:4,4 5:6 6:1 6:2,7</p> <p>ANC-1C 1:7 2:6 5:7</p> <p>ANC-1C01 2:12</p> <p>Anderson 19:4</p> <p>anybody 2:20 14:11</p> <p>appear 5:13 6:15 14:5</p> <p>applicant 7:15 13:11</p> <p>applicants 13:10</p> <p>Application 1:9</p>	<p>apply 17:1</p> <p>appreciate 4:11</p> <p>approve 6:2</p> <p>approved 9:15</p> <p>arbitrary 10:17</p> <p>asked 10:22</p> <p>asking 10:16</p> <p>Association 2:15,18 5:2,5</p> <p>associations 12:1</p> <p>attached 18:2</p> <p>attention 17:12</p> <p>Auburn 2:16,16 5:4,4 6:4 8:13,17 11:21 12:9,18 15:15,16,18,19 16:5,12 19:7</p> <p>August 17:10</p> <p>aware 13:20</p> <p>aye 15:1,2,3</p> <p>B</p> <p>back 4:19 9:16 13:15</p> <p>based 11:1,1</p> <p>basically 3:20</p> <p>basis 7:19 17:7</p> <p>bearing 7:3</p> <p>believe 3:6 6:2 13:20</p> <p>Benedicte 2:16 5:4 15:16</p> <p>beneficial 5:15</p> <p>better 3:17</p> <p>Beverage 1:2,12,12</p> <p>big 12:13</p> <p>blow-off 12:13</p> <p>Board 1:2,12 6:16 13:20 16:18</p> <p>Board's 12:21</p> <p>Brian 2:11 5:6</p> <p>bring 17:11</p> <p>BROOKS 1:17 14:20 15:3</p> <p>Building 1:13</p> <p>C</p>	<p>Cafe 1:5</p> <p>called 2:21</p> <p>case 1:8 2:3,4,7 3:11 4:19,20 9:5 9:13,17 10:2 11:9 13:10,11,16 14:4 14:17</p> <p>case-by-case 7:19 17:7</p> <p>caused 9:11,11</p> <p>Chair 9:20 13:6</p> <p>Chairperson 1:14 1:16 2:3,19 3:9,16 4:1,4,9,18 5:3,8 5:21 6:11 7:16 8:6,10,14,21 9:2 9:18 10:8,11,15 11:5,17,20 12:8 12:15,19 13:1 14:9,16,21 15:4,7 15:10 16:16 19:10</p> <p>chance 16:1</p> <p>changed 10:20</p> <p>Citizens 2:14 5:2</p> <p>clear 13:18</p> <p>COLUMBIA 1:1</p> <p>come 7:6 9:16 19:5</p> <p>comes 4:6</p> <p>comment 15:13,13 16:17</p> <p>comments 6:16</p> <p>Commissioner 2:12 5:7 10:10</p> <p>complain 15:20 16:9</p> <p>complete 5:19</p> <p>concluded 19:13</p> <p>consider 3:7 6:1</p> <p>consistent 10:7</p> <p>contact 19:2</p> <p>context 11:2</p> <p>continue 14:7</p> <p>Control 1:2,12,12</p> <p>copy 12:10</p> <p>Counsel 19:3</p> <p>created 10:6</p> <p>CT 1:7</p>	<p>D</p> <p>D.C 1:13</p> <p>date 3:5 11:18 17:9</p> <p>days 11:22 17:14</p> <p>decision 10:17 12:22</p> <p>denied 11:8</p> <p>Denis 2:13 5:1</p> <p>different 13:12 16:21</p> <p>differently 13:13</p> <p>difficult 14:4</p> <p>direct 10:22</p> <p>directly 11:1</p> <p>disclose 18:19</p> <p>discourage 14:3</p> <p>discussion 11:1</p> <p>dismiss 5:13 6:14 7:2,15 8:1 9:5 13:16 14:11,19,22</p> <p>dismissal 6:10 8:5 9:4 10:18 12:16</p> <p>dismissed 7:8 8:12 10:1 11:8 15:22 16:4</p> <p>DISTRICT 1:1</p> <p>doing 7:4 12:12 13:15</p> <p>DONALD 1:17</p> <p>Dullul 1:5</p> <p>E</p> <p>earlier 8:12 9:10</p> <p>efficient 18:3</p> <p>efforts 14:8</p> <p>enforced 10:7</p> <p>entails 12:14</p> <p>entered 6:20</p> <p>entirely 10:14</p> <p>especially 11:12 13:9</p> <p>everybody 7:14 16:2 18:4</p> <p>evidence 18:6</p> <p>excluded 18:10,18</p> <p>exhibit 18:1</p> <p>exhibits 18:2,14,17</p>	<p>18:18</p> <p>existing 4:3</p> <p>expressed 9:20 16:19</p> <p>F</p> <p>fact 17:2</p> <p>fails 15:8,9</p> <p>failure 5:13 6:15</p> <p>fair 13:22 16:2 17:1</p> <p>fairness 15:21</p> <p>fall 7:20</p> <p>favor 10:18 11:3 12:16,18 15:1</p> <p>feel 11:10</p> <p>file 7:11 17:13 18:2</p> <p>first 10:18 13:7</p> <p>flag 4:7</p> <p>Fletcher 12:7</p> <p>focus 17:19,20</p> <p>folks 11:15</p> <p>follow 16:2</p> <p>forget 15:14</p> <p>form 17:13,16 18:1</p> <p>forward 7:1,13 9:14</p> <p>further 11:18</p> <p>future 16:10</p> <p>G</p> <p>give 8:19</p> <p>go 4:19 7:1,10,12 7:21 9:6,8,14 14:15 17:17</p> <p>goes 7:13</p> <p>going 3:10 8:19 11:15 12:1 14:10 14:16 16:19 17:3 17:4,8,22 18:5,6</p> <p>good 18:12,21</p> <p>great 4:5</p> <p>guys 7:10</p> <p>H</p> <p>hand 10:1 14:2</p> <p>handed 14:1</p> <p>happens 14:14</p>
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